



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary

DATE: October 30, 2015

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Ben Brancel, Secretary *Ben Brancel*
Paul McGraw DVM, Administrator, Division of Animal Health *Paul McGraw*

SUBJECT: Animal Health and Movement, ch. ATCP 10, Wis. Admin. Code, and Animal Markets, Truckers and Dealers, ch. ATCP 12, Wis. Admin. Code (Hearing Draft Rule)

PRESENTED BY: Paul McGraw, DVM, Administrator, Division of Animal Health

REQUESTED ACTION:

At the November 18, 2015, Board meeting, the Department of Agriculture, Trade and Consumer Protection (DATCP) will ask the DATCP Board to authorize public hearings on a proposed rule (copy attached) amending chs. ATCP 10 and 12, Wis. Admin. Code, relating to animal health and movement, and animal markets, truckers, and dealers.

SUMMARY:

This proposed rule will make various modifications to provide for flexibility, clarity, and consistency. This proposed rule will also incorporate changes based on discussions with the farm-raised deer industry and other interested parties. The proposed rule makes the following modifications:

1. Definitions and terms.

Replacing the phrase, "buying or selling" with "trading in" under the definition of animal market to match the statutory definition under s. 95.68 (1) (ag), Stats.

Adding a definition of "trading in livestock or wild animals" to clarify that animal markets trade, buy, sell or swap livestock or wild animals.

Changing the spelling of "feedlot" to "feed lot" to match statutory language.

Modifying the definition of "Brucellosis and Tuberculosis uniform methods and rules" and "Johne's disease national program standards" to clarify that official individual identification requirements of any animal tested for these diseases must meet the requirements specified under ch. ATCP 10 Wis. Admin. Code, and not the identification requirements specified under the uniform methods and rules or national program standards.

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Changing the definition of “farm-raised deer” under ch. ATCP 10 Wis. Admin. Code, to match the definition of “farm-raised deer” under ch. ATCP 12 Wis. Admin. Code.

Changing the term, “federally approved livestock import market,” to “federally approved livestock marketing facility.”

Changing the definition of “individual” under ch. ATCP 12 Wis. Admin. Code, to match the definition of “individual” under ch. ATCP 10 Wis. Admin. Code.

Modifying the definition of “official individual identification” to allow additional forms of official individual identification to be used for farm-raised deer, equine, swine, and goats and sheep to align with federal rule definitions.

Modifying the definition of “slaughtering establishment” under ch. ATCP 10 Wis. Admin. Code, to match the definition of “slaughtering establishment” under ch. ATCP 12 Wis. Admin. Code.

Repealing the definition of “tuberculosis non-modified accredited state” as the term is not used throughout ch. ATCP 10 Wis. Admin. Code.

2. Disease testing/reporting.

The current rule requires the reporting of certain diseases to DATCP within specified timelines. The proposed rule requires the reported information to include the species, age, sex and breed of the animal afflicted with the disease, the address of the farm where the afflicted animal is located, and the premises code, if any.

3. Official individual identification.

Current rule specifies approved individuals who may apply official individual identification to animals for different purposes and requires these individuals to keep a record of any identification that has been applied. These requirements are interspersed throughout the rule under specific subsections.

The proposed rule makes these identification requirements more transparent by creating a general section relating to the application and record keeping requirements for those authorized to obtain and apply official individual identification. The proposed rule makes the identification requirements and record keeping requirements consistent throughout the rule. The proposed rule also clarifies throughout the rule that official individual identification does not need to be applied if all required individual identification is already applied to the animal.

4. Tuberculosis testing and control.

Current rule specifies tuberculosis testing requirements, including who may perform tests, test result reporting, and movement restrictions, under sections relating to bovine animals and farm-raised deer. The proposed rule creates a general tuberculosis testing and control section that pertains to any animal being tested for the disease and updates the tuberculosis provisions of bovine animals and farm-raised deer for consistency of all required tuberculosis information.

The proposed rule requires a person who performs a caudal fold tuberculin test on an animal, or collects a sample for any other tuberculosis test on an animal, to complete DATCP-approved training on tuberculosis testing or sample collection within 5 years prior to the test date.

The proposed rule deletes the requirement that a premises be cleaned and disinfected after an animal has been identified as a tuberculosis reactor. Cleaning and disinfecting should be done after tuberculosis has been confirmed in an animal identified as a reactor in accordance with the Federal Tuberculosis Uniform Methods and Rules.

The proposed rule makes consistent (according to the Federal Tuberculosis Uniform Methods and Rules) the number of days the department may for good cause extend a deadline (15 days) for sending an animal that is a tuberculosis reactor to slaughter.

5. Bovine import tuberculosis requirements.

Current rule requires any bovine animal imported into Wisconsin to test negative on a pre-import tuberculosis test, with some exceptions, including that the bovine originates from an accredited tuberculosis-free state or nation that accepts bovine animals from Wisconsin without a prior tuberculosis test. The proposed rule allows bovine animals from an accredited tuberculosis-free state or nation to be imported without a prior tuberculosis test, regardless of whether that state or nation requires a tuberculosis test from Wisconsin animals being imported to that state or nation.

6. Certificates of veterinary inspection (CVI).

Current rule allows a CVI to be issued on a form provided or approved by DATCP, the United States Department of Agriculture (USDA) federal bureau, or the state in which the certificate is issued. The proposed rule only allows the CVI to be on a form provided or approved by DATCP. DATCP will provide, on its web site, a list of CVI forms it has not approved.

Current rule requires certain information to be provided on a CVI. The proposed rule clarifies that this information needs to be verified as accurate by the veterinarian issuing the CVI.

Current rule states that a CVI is valid for 30 days from the date of inspection, unless additional import requirements must be met and the state veterinarian establishes a different expiration date. No person,

receiving a notice of additional import requirements, may import an animal into Wisconsin without meeting those requirements. The proposed rule extends this authority to movement of animals in Wisconsin, allowing the state veterinarian to specify a different expiration date for the CVI if the state veterinarian determines, based on an epidemiological evaluation of current disease risks in a herd or place of origin, that a different expiration date is necessary.

7. Federally approved livestock marketing facility.

Current rule uses the term, "federally approved livestock import market." The proposed rule updates the term with "federally approved livestock marketing facility" throughout chs. ATCP 10 and 12, Wis. Admin. Code.

The proposed rule also allows a federally approved livestock marketing facility to be a federally approved tagging site if that facility meets certain requirements and has an agreement with the USDA federal bureau.

8. Application information.

Current rule requires applicants for a permit to have an approved import feed lot, intermediate livestock handling facility, or foreign equine import quarantine station to provide the location of the facility by county, town, section, and sometimes fire number. The proposed rule requires applicants to provide the facility's location by address and county, or if the address is not available, the county, town, and section.

9. Slaughter swine identification.

Current rule requires swine going to slaughter to be identified with an official swine backtag or other approved slaughter identification, unless the swine already bears an official individual identification or slaughter identification. The proposed rule allows the use of premises identification number (PIN) eartag as an approved form of slaughter identification for swine.

10. Equine infectious anemia.

Current rule requires any equine animal that is purchased, sold or transferred in ownership to test negative for equine infectious anemia within 12 months. The proposed rule clarifies that the equine animal must test negative for equine infectious anemia within 12 months, from the date the blood was drawn for the test to the date of purchase, sale or transfer.

11. Farm-raised deer (FRD).

Commingling with bovine animals. Current rule allows FRD to commingle with bovine animals on the same premises or in the same building, enclosure or vehicle so long as neither is moved off the premises, except to slaughter. The proposed rule clarifies this provision so that FRD may be kept on the same premises as bovine animals, without having to go to slaughter, if the two species are medically separated. The Division

of Animal Health (Division) must inspect the location to determine whether the herds are medically separated, before the FRD herd is registered and, per current rule, the FRD keeper (FRDK) must pay an inspection fee of \$200 for each day needed to complete the inspection. No inspection is required for the renewal of an existing herd registration once the Division has previously inspected the herd premises.

Single registered herd kept at two or more locations. Current rule allows a single registered herd to be kept at two or more locations so long as the entire herd, and all herd locations, are actively enrolled in the chronic wasting disease herd status program. This allows a FRDK to move FRD between locations, without a CVI, as long as each of the deer have two individual identifications, one official and the other either official or unique to the herd, and the registrant keeps a record of the movement. The proposed rule provides for additional flexibility by allowing the single registered herd, kept at two or more locations, be either actively enrolled in the Chronic Wasting Disease (CWD) Herd Status Program (HSP) or not enrolled in the program at all. Regardless of the herd's enrollment, the deer must still have two individual identifications as described above and the registrant must keep a record of deer movement. The proposed rule adds that the name and address of the person who move any of the deer, if other than the owner, be included in the record of movement, consistent with other FRD movement requirements listed elsewhere in ch. ATCP 10. For further information, see the *Record-keeping requirements* summary below.

Separately registered herds kept at the same location and not medically separated. Current rule allows FRD from two or more herds, covered by separate registration certificates, to be kept at the same location. If the FRD are not in medically separated herds, the deer are collectively treated as a single herd for purposes of disease control and movement. The deer may be moved between any of the herd locations identified in any of the herd registration certificates as long as all of the herds, and all herd locations, are actively enrolled in the CWD program and each of the deer are identified with two individual identifications, one official and the other either official or unique to the herd. The proposed rule provides for additional flexibility by allowing that all of the herds, and all herd locations, be either actively enrolled in the CWD program or not enrolled in the program at all. Regardless of the herd's enrollment, each of the deer must still have two individual identifications as described above. The proposed rule also clarifies that deer movement may occur without a CVI if the registrant keeps a record of deer movement that includes the two individual identifications of the deer; the species, age, and sex of the deer; the date of movement; the name and address of the person who had custody of the deer during movement, if other than the owner; and the registration numbers of the herd from which, and to which, the deer was moved. The proposed rule specifies this record of movement information in this section be consistent with other FRD movement requirements listed elsewhere in ch. ATCP 10. For further information, see the *Record-keeping requirements* summary below.

Record keeping requirements. Current rule specifies record keeping requirements regarding deer movement, including escapes and slaughter, under various sections of ch. ATCP 10 Wis. Admin. Code. Some of the information varies slightly depending on where it is referenced in the rule. The proposed rule makes all record keeping requirements regarding FRD movement consistent throughout the rule. The proposed rule also requires that a record be kept regarding each known natural addition to the herd, including the month and year of birth, and sex of the deer, if determined.

Escaped FRD. Current rule specifies record keeping requirements for escaped FRD throughout ch. ATCP 10 Wis. Admin. Code. The proposed rule makes all record keeping requirements for escaped deer consistent throughout the rule. The proposed rule also clarifies that it is the FRDK responsibility to test any deer that escapes from the FRDK's herd for chronic wasting disease. The proposed rule expands the number of hours that may elapse from the time a deer escapes from a herd to the time it is returned, from 72 to 120, before the herd loses any tuberculosis or brucellosis certification or CWD herd status. This provision does not apply to deer that escape from a herd in a wild deer disease control area. These deer continue to be required to be returned to the herd within 24 hours after the escape.

FRD hunting preserves. Current rule uses the term "hunting preserve." The proposed rule changes that term to "hunting ranch" to more accurately describe the facility.

The proposed rule also eliminates the requirement that an applicant for a hunting ranch certificate provide a list showing, for each FRD on the hunting premises that bears any attached or implanted identification, each type of identification and each associated identification number that the FRD bears.

Current rule requires all non-natural additions to a hunting ranch have one visible official identification (eartag) and one microchip implanted at the base of the ear or tail of the deer. The proposed rule makes FRD identification consistent with requirements throughout the rule by requiring these deer to have two individual identifications, one official and the other either official or unique to the herd. One of these identifications must be visible. A microchip is no longer required to be used, but may be used as an official individual identification if it is federal bureau and DATCP approved, or as an identification that is unique to the herd.

Current rule requires any person that holds a hunting preserve certificate to keep records, including the name and address of the person who collected the test sample for chronic wasting disease. The proposed rule eliminates the requirement that the name and address of the person who collected the test sample for chronic wasting disease be recorded.

CWD testing. Current rule specifies CWD testing requirements for FRD herds enrolled in the CWD herd status program and for herds that are not enrolled in the program.

Current rule requires a FRDK, whose herd is enrolled in the CWD HSP, to have a CWD test performed on each (100%) of the following deer that are at least 12 months of age:

- A FRD that dies or is killed while kept by that person.
- A FRD that the person ships directly to a slaughtering establishment.

The proposed rule clarifies that escaped deer that die or are killed must be tested for CWD, as such testing is required elsewhere in the rule for escaped deer.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is enrolled in the CWD herd status program with at least 5 years of status, by requiring 25%, rather than 100%, of deer sent to slaughter be tested for CWD. A FRDK whose herd has less than 5 years of status in the CWD herd status program must continue to CWD test 100% of any FRD sent to slaughter.

Current rule requires a FRDK whose herd is not enrolled in the CWD HSP to have a CWD test performed on all of the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.
- All (100%) FRD that are killed intentionally.
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is not enrolled in the CWD herd status program by requiring CWD testing for the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.
- Fifty percent of FRD that are killed intentionally
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes, and whose remains are testable, on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule does not set any specific standard as to whether a FRD's remains are testable. After an animal dies, the body begins to decompose at a rate that corresponds to the weather, ambient temperature, and other elements. Decomposition will affect the ability of the lab to detect disease. Testability will have to be determined on a case-by-case basis by the FRDK.

Test samples collected for CWD. Current rule requires a person who collects a CWD test sample from a FRD to meet certain requirements. The proposed rule adds the requirement that the collector label the test sample with the official individual identification or backtag number of the animal being tested.

Verification of CWD test results. The proposed rule creates a provision allowing a FRDK to verify the identity of a FRD that was reported as being positive for CWD, through genetic testing in a procedure approved by DATCP. Genetic testing is currently allowed, but not in rule.

CWD herd quarantine. Current rule requires a FRD herd to be quarantined if one of the deer in the herd tests positive for CWD. The proposed rule specifies a herd may be quarantined for up to five years from the date the last FRD in the herd tested positive for CWD. The proposed rule also clarifies that, based on the

epidemiological evaluation, DATCP may quarantine a herd or individual FRD traced back or forward from the herd in which a FRD tested positive for CWD.

CWD HSP. Current rule specifies requirements for enrollment in the CWD HSP. Enrollment requires the applicant to provide certain information including the number of FRD at least one year old and the number less than one year old. The proposed rule repeals this requirement, as current rule requires the applicant to provide the month and year of birth for each FRD.

Current rule requires a FRDK, whose herd is enrolled in the CWD HSP, to provide a list of each known natural addition to the herd, including the month and year of birth, and sex, if determined, on the annual census. For consistency, the proposed rule adds this requirement to the general record keeping requirements of a FRDK with a herd enrolled in the CWD HSP.

FRD identification. Current rule requires a veterinarian to identify any FRD with an official individual identification unless the FRD already bears all required individual identification whenever he or she vaccinates, tests, or collects samples from a FRD. The proposed rule requires the veterinarian to record the official individual identification of the FRD on the vaccination, test or sample.

FRD imports. With some exceptions, current rule requires that FRD imported into Wisconsin have a CVI. To be consistent with requirements for intrastate movement of deer, the proposed rule requires that the following statements be included on the CVI for deer imported into this state:

- All cervids identified on this certificate originate from a herd that has shown no clinical signs of CWD in the past 12 months.
- All cervids identified on this certificate originate from a herd that is adequately separate from any wild deer herd known to be infected with CWD.

Double protective barriers. In some cases, FRD herds must be enclosed by a double protective barrier. The barrier may be either a double fence that meets certain criteria or a solid barrier that is at least 8 feet high. Current rule requires the double fence to be 8 feet high and the two fences must be at least 10 feet but not more than 16 feet apart. The proposed rule modifies the minimum distance allowed between the two fences to be 8 feet, rather than 10 feet, to align with the Department of Natural Resources (DNR) rule, s. NR. 16.45, Wis. Admin. Code.

12. Fish farms.

Current rule specifies fees charged to applicants who apply for a license or registration after the license or registration has expired or after it has been determined that the operator of a facility operated without a license or registration. The proposed rule adds these specified fees to fish farm registrations to be consistent with requirements for other registrations and licenses.

Current rule allows some fish or fish eggs to be imported into Wisconsin without having an import permit. Current rule could be read that import records must be kept only if the person importing fish has an import permit. The proposed rule clarifies that import records must be kept regardless of whether or not the person was required to have an import permit.

Current rule allows fish to be reintroduced into their original wild source without a health certificate if certain criteria are met, including issuance of a permit by the state veterinarian or designee and written approval from the DNR. The proposed rule eliminates the requirement that a permit be issued by the state veterinarian or designee and requires specific records of any movement be kept by the DNR for at least five years.

13. CVI not required.

Current rule allows certain animals, including goat, sheep, swine, equine, and bovine to cross the Wisconsin state border without a CVI if the animal is:

- Imported directly to a veterinary facility for treatment provided that the animal is returned to its place of origin immediately following treatment and there is no change in ownership of the animal.
- Returned directly to its place of origin in this state following treatment in a veterinary facility outside this state, provided that the animal was taken directly to the veterinary facility and there was no change of ownership.

The proposed rule applies these provisions to dogs and cats for consistency.

14. Elephant imports.

Current rule specifies requirements for any person that imports certain animals or imports animals for certain activities. The proposed rule specifies requirements for the import of elephants and requires an imported elephant to have:

- A valid CVI that includes the import permit number and a report of a negative tuberculosis test.
- An import permit.
- At least one negative tuberculosis test, approved by DATCP, conducted not more than 365 days prior to the import date (except for an elephant imported directly to an institution accredited by the association of zoos and aquariums).
- An owner statement that the elephant imported into this state has not been exposed to mycobacterium tuberculosis within 5 years prior to the date of import. If the elephant has been exposed to this disease within 5 years, the person may not import the elephant unless the elephant has met additional tuberculosis testing requirements specified by the state veterinarian.

15. Appendix B.

Appendix B to ch. ATCP 10 specifies diseases that must be reported within 10 days. The proposed rule amends the Appendix to match federal requirements.

16. Animal markets, dealers, and truckers

Current rule establishes licensing requirements and responsibilities of animal markets, animal dealers, and animal truckers.

The proposed rule clarifies when a license is not required, such as the following:

- A farm operator does not need an animal market license to have an occasional sale buying or exchanging livestock solely for dairy, breeding, or feeding operations on that farm or who sells only livestock produced or raised on that farm.
- A person does not need an animal trucker license to transport livestock or wild animals solely as an employee of a person who owns those animals.

The proposed rule eliminates the requirement that a Class B animal market, when applying for an animal market license, identify the dates during the previous license year, if any, on which the person conducted livestock sales at the animal market.

The proposed rule provides cross-references to additional fees that may apply to a person applying for an animal market and dealer trucker license.

The proposed rule clarifies that DATCP may deny, suspend, or revoke an animal market or animal dealer license if the applicant is in violation of 9 CFR Part 201, relating to registration or bonding requirements of the Federal Packers and Stockyards Act.

The proposed rule clarifies that an animal dealer or animal market operator must immediately apply and record an animal's official individual identification, if the animal does not already have it, if that animal was backtagged to go to slaughter but did not go to slaughter.

The proposed rule repeals the requirement that an animal market operator, animal dealer, and animal trucker record the livestock premises code of the premises from which an animal was received and the livestock premises code of the premises to which the animal is shipped or delivered.

The proposed rule prohibits the use of electric prods on neonatal or other baby animals. The proposed rule also prohibits hitting these animals with any type of solid object that may cause injury, pain, or stress to the animal.

17. Waiver.

The proposed rule allows DATCP to grant a waiver from the requirements under ch. ATCP 12 Wis. Admin. Code, if it receives a written request for the waiver and DATCP finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 12 Wis. Admin. Code, and will not conflict with state law.

Summary of, and comparison with, existing or proposed federal statutes and regulations

The USDA administers federal regulations related to the interstate movement of animals, particularly with respect to certain major diseases. States regulate intrastate movement and imports into the state.

Federal CWD Herd Certification Program ("HCP") requirements include official individual identification of animals, regular inventories, and CWD testing of cervids over 12 months of age that die. Interstate movement of cervids will be dependent on a state's participation in the program, maintaining compliance with program requirements, and having achieved herd certification status.

Federal traceability requirements establish minimum national official identification and documentation for the traceability of livestock moving interstate. These regulations specify approved forms of official identification and documentation for each species.

The proposed rule eases some requirements for those farm-raised deer keepers that have herds enrolled in the CWD HCP while still meeting federal requirements.

Comparison with Rules in Adjacent states

Surrounding state animal health programs are comparable to those in Wisconsin. Programs for historically important diseases, such as tuberculosis, brucellosis, and CWD, in other Midwest states are similar to Wisconsin, as all are based on well-established federal standards.

States may apply to become an Approved State HCP if they meet (or exceed) national program requirements. Cervid owners can enroll and participate in their Approved State CWD HCP. Interstate movement of animals is dependent on a state's participation in the program, maintaining compliance with program requirements, and having achieved herd certification status. Wisconsin, Illinois, Iowa, Michigan, and Minnesota have approved CWD HCPs by the USDA Animal and Plant Health Inspection Service ("APHIS"). Therefore, all are implementing the federal requirements and thus are similar to Wisconsin rules.

To meet federal CWD HCP requirements for farm-raised deer to move interstate, a state program must meet approved forms of official identification. Wisconsin, Illinois, Iowa, Michigan, and Minnesota programs are approved as meeting the federal traceability identification requirements in order to move livestock interstate. Therefore, all are implementing the federal requirements and all should have similar state rules.

Summary of Factual Data and Analytical Methodologies

This proposed rule does not depend on any complex analysis of data. This proposed rule makes minor, technical changes based on the Division's review and use of the rule, as well as changes made based on discussions with the farm-raised deer industry and other interested parties.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

The majority of these proposed rule changes are to make the requirements throughout the rule consistent.

The most significant rule changes (and fiscal impact) relate to FRDKs enrolled in the Wisconsin CWD HCP. Division staff met with representatives of the FRDKs industry in March 2015 to discuss suggested changes to the rules relating to FRD and how to ease some of those requirements while still meeting federal regulations. Many of the small business fiscal effects were developed from that meeting, as well as from discussions with individual FRDKs.

Next Steps

If the Board authorizes public hearings on this rule, DATCP will refer a copy of the rule to the Legislative Council Rules Clearinghouse and publish a hearing notice in the Wisconsin Administrative Register. DATCP will hold public hearings on the dates and the locations specified in the hearing notice. The hearing dates and locations have not yet been determined.

Following the public hearings, DATCP will prepare a final draft rule for the Board's consideration. If the Board approves a final draft rule, DATCP will transmit that final draft rule to the Governor for his written approval and then to the Legislature for review by appropriate legislative committees. If the Legislature takes no action to stop the rule, the Secretary will sign the final rulemaking order and transmit it for publication.

**PROPOSED ORDER
OF THE STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

1 The Wisconsin department of agriculture, trade and consumer protection proposes the following
2 permanent rule **to repeal** ATCP 10.01 (103), 10.13 (6) (a) 2., 10.22 (5) (b) 4. b., 10.31 (2) (Note),
3 10.46 (10) (a) 7., 10.47 (3) (b) 6., 10.47 (7) (b) 3., 10.48 (6) (b) 2., 10.53 (2) (d) 2. and 3., 10.53
4 (5) (a) 1. and 2. and (b) 1., 10.53 (6) (a) 1. to 4., 10.655 (1) (a), 10.655 (3) and (4), 10.82 (3) (c),
5 12.06 (1m) (bc) and (1s) (c); **to renumber** ATCP 10.01 (71) (c) 1. to 7., 12.01 (20) (c) 1. to 7.,
6 12.04 (2) (b), 12.05 (1) (b); **to renumber and amend** ATCP 10.01 (71) (b), 10.46 (5) (b) 2.,
7 10.46 (11) (d), 10.46 (12) (a), 10.48 (1) (c), 10.48 (1) (d), 10.52 (1m) (a) 2., 10.55 (3) (e), 10.56
8 (1) (a) 2., 10.82 (4) (b), 12.01 (11m), 12.01 (20) (b), 12.05 (2) (b); **to consolidate, renumber**
9 **and amend** ATCP 10.13 (6) (a) (intro.) and 1., 10.22 (5) (b) 4. (intro.) and (a), 10.48 (6) (b)
10 (intro.) and 1., **to amend** ATCP 10.01 (5), (8), (17) (a), (42), (45), (59), 10.01 (71) (c), 10.01
11 (71) (f) (g) 3., 10.01 (71) (h) 2., (90), (101), and (106) (a), 10.03 (3), 10.06 (3) (a), (4) (intro.)
12 and (j) and (5), 10.07 (4) (title), (a) (intro.) and 3., (b), (c) (intro.) and (d), 10.13 (1) (a) (intro.)
13 and 2., 10.13 (3) and Note, (5), (6) (a), 10.13 (6) (c), 10.21 (1) (a) (intro.), (2) (a) (intro.) and 1.,
14 and (b) 1., 10.22 (1) (b) 2. and Note, (2) (b) 4., 10.22 (9) (title) and (a) and Note, (b) and Note,
15 (c) (intro.) and 3., (d), (e) (intro.) and 2. and 3., 10.22 (10) (c), 10.30 (1) (b) 2. and Note, (2) (b)
16 2., (3) (b) 2., (4) (b) 2., and (6) (b) 2., 10.31 (1) (intro.) and (a), (2) (a) 1. and 3. and (b), 10.35,
17 (1) (a), 10.36 (3), 10.37 (3) (c), 10.40 (1) (intro.), 10.46 (4) (a) and (b) 2., 10.46 (5) (a), 10.46
18 (5) (b) 3., (6) (c) 4., (f) Note, (7) (b), (10) (a) (intro.) and 1., 3., 4. and 5., 10.46 (10) (b) (intro.)
19 and 1., 10.46 (10) (c) 3., 10.46 (11) (c), 10.46 (12) (b) and (c) and (13) Note, 10.47 (title), 10.47
20 (2) (b), 10.47 (3) (title), (a) and Note and (b) (intro.) and 2., 5. and 6. Note, 10.47 (3) (c), 10.47
21 (3m) (intro.) and (c), 10.47 (4) (intro.) and (4m), 10.47 (6), 10.47 (7) (intro.) and (b) (intro.) and
22 2., 10.47 (8) (intro.), 10.48 (1) (title), (a) (intro.) and 2., 10.48 (4) and Note, and (5), 10.48 (6) (c)
23 and (d), 10.52 (1m) (a) 1., 10.52 (1m) (a) 2. Note and (b) 1. to 3., 10.52 (7), 10.52 (8) (c) Note,
24 10.53 (2) (c), 10.53 (2) (e) Note, 10.53 (4) (b) 2., 10.53 (6) (a) (intro.), 10.53 (6) (b) 2. to 4.,
25 10.53 (7) (a) 5., 10.53 (10) (a) 2. b., 10.54 (1) (a) (intro.) and (am), 10.54 (2) (a) and (b) 1., 10.55
26 (3) (d) Note, 10.56 (3) (f) 1. and 4., 10.58 (1) (b), 10.61 (2) (i) 3. Note, 10.61 (7) (e), 10.62 (7)
27 (intro.) and (a), 10.655 (1) (b), 10.69 (2) (d), 10.74 (1) and Note and (2), 10.76 (1) (b) 4., 10.80
28 (1) (intro.), 10.87 (1) (b), 10.87 (3) (b) 1., 10.87 (6) (a), 10.91 (1) (intro.), ch. ATCP 10,
29 Appendix B, 12.01 (1g), (8y), 12.01 (20) (c) (intro.), 12.01 (20) (f) and (g) 3., 12.01 (20) (h) 2.
30 and (25), 12.02 (1m) (intro.), 12.02 (3) (c), (d), and (f), 12.03 (2) (b) and (4) (d), 12.04 (9) (a)
31 and (b), 12.05 (1) (a), 12.05 (2) (a), 12.05 (2) (b) second Note, 12.08 (10); **to repeal and**
32 **recreate** ATCP 10.13 (1) (b), 10.52 (1m) (b) 4., 10.655 (2); **to create** ATCP 10.01 (71) (b) 2.,
33 10.01 (71) (c) 2. and 3., 10.01 (71) (g) 4., 10.01 (99m), 10.045, 10.055, 10.07 (4m) (am), 10.13
34 (1m), 10.46 (1) (f), 10.46 (5) (b) 2. b., 10.46 (10) (ak) (am) and (ao), 10.46 (11) (d) 2., 10.46 (12)
35 (a) 2. and (am), 10.52 (1m) (a) 2. a. and b., 10.52 (3) (c) 1m., 10.52 (6m), 10.52 (7m), 10.53 (6)
36 (am), 10.55 (3) (e) 2. and 3., 10.56 (1) (a) 2. a. and b. and 3., 10.61 (7) (f), 10.80 (3), 10.82 (4)
37 (b) 2., 10.86, Chapter ATCP 12 Note (2), 12.01 (11m) (a), 12.01 (20) (b) 2., 12.01 (20) (c) 2. and

38 3., 12.01 (20) (g) 4., 12.01 (26m), 12.02 (7) (i), 12.03 (8) (i), 12.04 (2) (b) 2., 12.05 (1) (b) 2.,
39 12.05 (2) (b) 2., 12.08 (27), and 12.09, relating to animal disease control and animal movement,
40 and animal markets, dealers and truckers, and affecting small business.

*Analysis Prepared by the Department
of Agriculture, Trade and Consumer Protection*

This proposed rule will modify current animal health rules to provide for flexibility, clarity and consistency.

Statutes Interpreted

Statutes interpreted: ss. 93.07, 95.20, 95.22, 95.31, 95.45, 95.55, 95.60 95.65, 95.68, 95.69, 95.71, and 95.715 Stats.

Statutory Authority

Statutory authority: ss. 93.07 (1), (2) and (10), 93.15 (1), (2) and (3), 95.20, 95.22, 95.38 (3), 95.42, 95.43 (1) and (2), 95.45 (4) (c), 95.55 (6), and 95.60 (3) and (4s), 95.68 (8), 95.69 (8) and 95.71 (8), and 95.715 (2) (d), Stats.

Explanation of Statutory Authority

The Department of Agriculture, Trade and Consumer Protection (DATCP) has broad authority to promulgate rules for the proper enforcement of its programs under s. 93.07 (1) and (10), Stats.

DATCP has broad authority under s. 95.20, Stats., to prohibit or regulate the importing of animals into this state or the movement of animals if there are reasonable grounds to believe it is necessary to prevent the introduction or spread of disease in this state.

DATCP has specific rulemaking authority on reporting animal diseases under s. 95.22 (2), certificates of veterinary inspection under s. 95.45 (4) (c), Stats., regulation of the farm-raised deer industry under s. 95.55 (6), Stats., regulation of fish farms under s. 95.60 (3) and (4s), regulation of animal markets under s. 95.68 (8), regulation of animal dealers under s. 95.69 (8), regulation of animal truckers under s. 95.71 (8), and regulation of feed lots under s. 95.715 (2) (d), Stats. DATCP makes and enforces these rules, through its Division of Animal Health (Division)

Related Statutes and Rules

The Department of Natural Resources (DNR) has statutes and rules that are closely related to some of the program areas in DATCP. Section NR 16.45, Wisconsin Administrative Code, establishes fencing requirements and harvest plan requirements for keepers of farm-raised deer that are white-tailed deer. Section 29.87, Stats., establishes guidelines by which the DNR may dispose of escaped farm-raised deer. Section 29.735, Stats., establishes requirements for

importation of fish other than health requirements and section 29.736, Stats., establishes requirements for the stocking of fish into waters of the state, other than health requirements.

Plain Language Analysis

The proposed rule makes the following modifications to provide for flexibility, clarity and consistency:

1. Definitions and terms.

Replacing the phrase, “buying or selling” with “trading in” under the definition of animal market to match the statutory definition under s. 95.68 (1) (ag), Stats.

Adding a definition of “trading in livestock or wild animals” to clarify that animal markets trade, buy, sell or swap livestock or wild animals.

Changing the spelling of “feedlot” to “feed lot” to match statutory language.

Modifying the definition of “Brucellosis and Tuberculosis uniform methods and rules” and “Johne’s disease national program standards” to clarify that official individual identification requirements of any animal tested for these diseases must meet the requirements specified under ch. ATCP 10 and not the identification requirements specified under the uniform methods and rules or national program standards.

Changing the definition of “farm-raised deer” under ch. ATCP 10 to match the definition of “farm-raised deer” under ch. ATCP 12.

Changing the term, “federally approved livestock import market,” to “federally approved livestock marketing facility.”

Changing the definition of “individual” under ch. ATCP 12 to match the definition of “individual” under ch. ATCP 10.

Modifying the definition of “official individual identification” to allow additional forms of official individual identification to be used for farm-raised deer, equine, swine, and goats and sheep to align with federal rule definitions.

Modifying the definition of “slaughtering establishment” under ch. ATCP 10 to match the definition of “slaughtering establishment” under ch. ATCP 12.

Repealing the definition of “tuberculosis non-modified accredited state” as the term is not used throughout ch. ATCP 10.

2. Disease testing/reporting.

Current rule requires the reporting of certain diseases to DATCP within specified timelines. The proposed rule requires the reported information include the species, age, sex and breed

of the animal afflicted with the disease, the address of the farm where the afflicted animal is located, and the premises code, if any.

3. Official individual identification.

Current rule specifies approved individuals who may apply official individual identification to animals for different purposes and requires these individuals to keep a record of any identification that has been applied. These requirements are interspersed throughout the rule under specific subsections.

The proposed rule makes these identification requirements more transparent by creating a general section relating to the application and record keeping requirements for those authorized to obtain and apply official individual identification. The proposed rule makes the identification requirements and record keeping requirements consistent throughout the rule. The proposed rule also clarifies throughout the rule that official individual identification does not need to be applied if all required individual identification is already applied to the animal.

4. Tuberculosis testing and control.

Current rule specifies tuberculosis testing requirements, including who may perform tests, test result reporting and movement restrictions, under sections relating to bovine animals and farm-raised deer. The proposed rule creates a general tuberculosis testing and control section that pertains to any animal being tested for the disease and updates the tuberculosis provisions of bovine animals and farm-raised deer, for consistency of all required tuberculosis information.

The proposed rule requires a person who performs a caudal fold tuberculin test on an animal, or collects a sample for any other tuberculosis test on an animal, to complete DATCP-approved training on tuberculosis testing or sample collection within 5 years prior to the test date.

The proposed rule deletes the requirement that a premises be cleaned and disinfected after an animal has been identified as a tuberculosis reactor. Cleaning and disinfecting should be done after tuberculosis has been confirmed in an animal identified as a reactor in accordance with the federal Tuberculosis Uniform Methods and Rules.

The proposed rule makes consistent (according to the Federal Tuberculosis Uniform Methods and Rules) the number of days the department may for good cause extend a deadline (15 days) for sending an animal that is a tuberculosis reactor to slaughter.

5. Bovine import tuberculosis requirements.

Current rule requires any bovine animal imported into Wisconsin to test negative on a pre-import tuberculosis test, with some exceptions, including that the bovine originates from an accredited tuberculosis-free state or nation that accepts bovine animals from Wisconsin without a prior tuberculosis test. The proposed rule allows bovine animals from an accredited tuberculosis-free state or nation to be imported without a prior tuberculosis test, regardless of

whether that state or nation requires a tuberculosis test from Wisconsin animals being imported to that state or nation.

6. Certificates of veterinary inspection (CVI).

Current rule allows a CVI to be issued on a form provided or approved by DATCP, the United States Department of Agriculture (USDA) federal bureau, or the state in which the certificate is issued. The proposed rule only allows the CVI to be on a form provided or approved by DATCP. DATCP will provide, on its web site, a list of CVI forms it has not approved.

Current rule requires certain information to be provided on a CVI. The proposed rule clarifies that this information needs to be verified as accurate by the veterinarian issuing the CVI.

Current rule states that a CVI is valid for 30 days from the date of inspection, unless additional import requirements must be met and the state veterinarian establishes a different expiration date. No person, receiving a notice of additional import requirements, may import an animal into Wisconsin without meeting those requirements. The proposed rule extends this authority to movement of animals in Wisconsin, allowing the state veterinarian to specify a different expiration date for the CVI if the state veterinarian determines, based on an epidemiological evaluation of current disease risks in a herd or place of origin, that a different expiration date is necessary.

7. Federally approved livestock marketing facility.

Current rule uses the term, "federally approved livestock import market." The proposed rule updates the term with "federally approved livestock marketing facility" throughout chs. ATCP 10 and 12.

The proposed rule also allows a federally approved livestock marketing facility to be a federally approved tagging site if that facility meets certain requirements and has an agreement with the USDA federal bureau.

8. Application information.

Current rule requires applicants, for a permit to have an approved import feed lot, intermediate livestock handling facility, or foreign equine import quarantine station, to provide the location of the facility by county, town, section and sometimes fire number. The proposed rule requires applicants to provide the facility's location by address and county, or if the address is not available, the county, town, and section.

9. Slaughter swine identification.

Current rule requires swine going to slaughter to be identified with an official swine backtag or other approved slaughter identification, unless the swine already bears an official individual identification or slaughter identification. The proposed rule allows the use of premises identification number (PIN) eartag as an approved form of slaughter identification for swine.

10. Equine infectious anemia.

Current rule requires any equine animal that is purchased, sold or transferred in ownership to test negative for equine infectious anemia within 12 months. The proposed rule clarifies that the equine animal must test negative for equine infectious anemia within 12 months, from the date the blood was drawn for the test to the date of purchase, sale or transfer.

11. Farm-raised deer (FRD).

Commingle with bovine animals. Current rule allows FRD to commingle with bovine animals on the same premises or in the same building, enclosure or vehicle so long as neither is moved off the premises, except to slaughter. The proposed rule clarifies this provision so that FRD may be kept on the same premises as bovine animals, without having to go to slaughter, if the two species are medically separated. The Division of Animal Health (Division) must inspect the location to determine whether the herds are medically separated, before the FRD herd is registered and, per current rule, the FRD keeper (FRDK) must pay an inspection fee of \$200 for each day needed to complete the inspection. No inspection is required for the renewal of an existing herd registration once the Division has previously inspected the herd premises.

Single registered herd kept at two or more locations. Current rule allows a single registered herd to be kept at two or more locations so long as the entire herd, and all herd locations, are actively enrolled in the chronic wasting disease herd status program. This allows a FRDK to move FRD between locations, without a CVI, as long as each of the deer have two individual identifications, one official and the other either official or unique to the herd, and the registrant keeps a record of the movement. The proposed rule provides for additional flexibility by allowing the single registered herd, kept at two or more locations, be either actively enrolled in the Chronic Wasting Disease (CWD) Herd Status Program (HSP) or not enrolled in the program at all. Regardless of the herd's enrollment, the deer must still have two individual identifications as described above and the registrant must keep a record of deer movement. The proposed rule adds that the name and address of the person who move any of the deer, if other than the owner, be included in the record of movement, consistent with other FRD movement requirements listed elsewhere in ch. ATCP 10. For further information, see the *Record-keeping requirements* summary below.

Separately registered herds kept at the same location and not medically separated. Current rule allows FRD from two or more herds, covered by separate registration certificates, to be kept at the same location. If the FRD are not in medically separated herds, the deer are collectively treated as a single herd for purposes of disease control and movement. The deer may be moved between any of the herd locations identified in any of the herd registration certificates as long as all of the herds, and all herd locations, are actively enrolled in the CWD HSP program and each of the deer are identified with two individual identifications, one official and the other either official or unique to the herd. The proposed rule provides for additional flexibility by allowing that all of the herds, and all herd locations, be either actively enrolled in the CWD HSP program or not enrolled in the program at all. Regardless of the herd's enrollment, each of the deer must still have two individual identifications as described above. The proposed rule also clarifies that deer movement may occur without a

CVI if the registrant keeps a record of deer movement that includes the two individual identifications of the deer; the species, age, and sex of the deer; the date of movement; the name and address of the person who had custody of the deer during movement, if other than the owner; and the registration numbers of the herd from which, and to which, the deer was moved. The proposed rule specifies this record of movement information in this section be consistent with other FRD movement requirements listed elsewhere in ch. ATCP 10. For further information, see the *Record-keeping requirements* summary below.

Record keeping requirements. Current rule specifies record keeping requirements regarding deer movement, including escapes and slaughter, under various sections of ch. ATCP 10. Some of the information varies slightly depending on where it is referenced in the rule. The proposed rule makes all record keeping requirements regarding FRD movement consistent throughout the rule. The proposed rule also requires that a record be kept regarding each known natural addition to the herd, including the month and year of birth, and sex of the deer, if determined.

Escaped FRD. Current rule specifies record keeping requirements for escaped FRD throughout ch. ATCP 10. The proposed rule makes all record keeping requirements for escaped deer consistent throughout the rule. The proposed rule also clarifies that it is the FRDK's responsibility to test any deer that escapes from the FRDK's herd for chronic wasting disease. The proposed rule expands the number of hours that may elapse from the time a deer escapes from a herd to the time it is returned, from 72 to 120, before the herd loses any tuberculosis or brucellosis certification or CWD herd status. This provision does not apply to deer that escape from a herd in a wild deer disease control area. These deer continue to be required to be returned to the herd within 24 hours after the escape.

FRD hunting preserves. Current rule uses the term "hunting preserve." The proposed rule changes that term to "hunting ranch" to more accurately describe the facility.

The proposed rule also eliminates the requirement that an applicant for a hunting ranch certificate provide a list showing, for each FRD on the hunting premises that bears any attached or implanted identification, each type of identification and each associated identification number that the FRD bears.

Current rule requires all non-natural additions to a hunting ranch have one visible official identification (eartag) and one microchip implanted at the base of the ear or tail of the deer. The proposed rule makes FRD identification consistent with requirements throughout the rule by requiring these deer to have two individual identifications, one official and the other either official or unique to the herd. One of these identifications must be visible. A microchip is no longer required to be used, but may be used as an official individual identification if it is federal bureau and DATCP approved, or as an identification that is unique to the herd.

Current rule requires any person that holds a hunting preserve certificate to keep records, including the name and address of the person who collected the test sample for chronic wasting disease. The proposed rule eliminates the requirement that the name and address of the person who collected the test sample for chronic wasting disease be recorded.

CWD testing. Current rule specifies CWD testing requirements for FRD herds enrolled in the CWD herd status program and for herds that are not enrolled in the program.

Current rule requires a FRDK, whose herd is enrolled in the CWD HSP, to have a CWD test performed on each (100%) of the following deer that are at least 12 months of age:

- A FRD that dies or is killed while kept by that person.
- A FRD that the person ships directly to a slaughtering establishment.

The proposed rule clarifies that escaped deer that die or are killed must be tested for CWD, as such testing is required elsewhere in the rule for escaped deer.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is enrolled in the CWD herd status program with at least 5 years of status, by requiring 25%, rather than 100%, of deer sent to slaughter be tested for CWD. A FRDK whose herd has less than 5 years of status in the CWD herd status program must continue to CWD test 100% of any FRD sent to slaughter.

Current rule requires a FRDK whose herd is not enrolled in the CWD HSP to have a CWD test performed on all of the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.
- All (100%) FRD that are killed intentionally.
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is not enrolled in the CWD herd status program by requiring CWD testing for the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.
- Fifty percent of FRD that are killed intentionally
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes, and whose remains are testable, on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule does not set any specific standard as to whether a FRD's remains are testable. After an animal dies, the body begins to decompose at a rate that corresponds to the weather, ambient temperature, and other elements. Decomposition will affect the ability of the lab to detect disease. Testability will have to be determined on a case-by-case basis by the FRDK.

Test samples collected for CWD. Current rule requires a person who collects a CWD test sample from a FRD to meet certain requirements. The proposed rule adds the requirement

that the collector label the test sample with the official individual identification or backtag number of the animal being tested.

Verification of CWD test results. The proposed rule creates a provision allowing a FRDK to verify the identity of a FRD that was reported as being positive for CWD, through genetic testing in a procedure approved by DATCP. Genetic testing is currently allowed, but not in rule.

CWD herd quarantine. Current rule requires a FRD herd to be quarantined if one of the deer in the herd tests positive for CWD. The proposed rule specifies a herd may be quarantined for up to five years from the date the last FRD in the herd tested positive for CWD. The proposed rule also clarifies that, based on the epidemiological evaluation, DATCP may quarantine a herd or individual FRD traced back or forward from the herd in which a FRD tested positive for CWD.

CWD HSP. Current rule specifies requirements for enrollment in the CWD HSP. Enrollment requires the applicant to provide certain information including the number of FRD at least one year old and the number less than one year old. The proposed rule repeals this requirement, as current rule requires the applicant to provide the month and year of birth for each FRD.

Current rule requires a FRDK whose herd is enrolled in the CWD HSP to provide a list of each known natural addition to the herd, including the month and year of birth, and sex, if determined, on the annual census. For consistency, the proposed rule adds this requirement to the general record keeping requirements of a FRDK with a herd enrolled in the CWD HSP.

FRD identification. Current rule requires a veterinarian to identify any FRD with an official individual identification unless the FRD already bears all required individual identification whenever he or she vaccinates, tests, or collects samples from a FRD. The proposed rule requires the veterinarian to record the official individual identification of the FRD on the vaccination, test or sample.

FRD imports. With some exceptions, current rule requires that FRD imported into Wisconsin have a CVI. To be consistent with requirements for intrastate movement of deer, the proposed rule requires that the following statements be included on the CVI for deer imported into this state:

- All cervids identified on this certificate originate from a herd that has shown no clinical signs of CWD in the past 12 months.
- All cervids identified on this certificate originate from a herd that is adequately separate from any wild deer herd known to be infected with CWD.

Double protective barriers. In some cases, FRD herds must be enclosed by a double protective barrier. The barrier may be either a double fence that meets certain criteria or a solid barrier that is at least 8 feet high. Current rule requires the double fence to be 8 feet high and the two fences must be at least 10 feet but not more than 16 feet apart. The proposed rule modifies the minimum distance allowed between the two fences to be 8 feet, rather than

10 feet, to align with the Department of Natural Resources (DNR) rule, s. NR. 16.45, Wis. Admin. Code.

12. Fish farms.

Current rule specifies fees charged to applicants who apply for a license or registration after the license or registration has expired or after it has been determined that the operator of a facility operated without a license or registration. The proposed rule adds these specified fees to fish farm registrations to be consistent with requirements for other registrations and licenses.

Current rule allows some fish or fish eggs to be imported into Wisconsin without having an import permit. Current rule could be read that import records must be kept only if the person importing fish has an import permit. The proposed rule clarifies that import records must be kept regardless of whether or not the person was required to have an import permit.

Current rule allows fish to be reintroduced into their original wild source without a health certificate if certain criteria are met, including issuance of a permit by the state veterinarian or designee and written approval from the DNR. The proposed rule eliminates the requirement that a permit be issued by the state veterinarian or designee and requires specific records of any movement be kept by the DNR for at least five years.

13. CVI not required.

Current rule allows certain animals, including goat, sheep, swine, equine, and bovine to cross the Wisconsin state border without a CVI if the animal is:

- Imported directly to a veterinary facility for treatment provided that the animal is returned to its place of origin immediately following treatment and there is no change in ownership of the animal.
- Returned directly to its place of origin in this state following treatment in a veterinary facility outside this state, provided that the animal was taken directly to the veterinary facility and there was no change of ownership.

The proposed rule applies these provisions to dogs and cats for consistency.

14. Elephant imports.

Current rule specifies requirements for any person that imports certain animals or imports animals for certain activities. The proposed rule specifies requirements for the import of elephants and requires an imported elephant to have:

- A valid CVI that includes the import permit number and a report of a negative tuberculosis test.
- An import permit.
- At least one negative tuberculosis test, approved by DATCP, conducted not more than 365 days prior to the import date (except for an elephant imported directly to an institution accredited by the association of zoos and aquariums).

- An owner statement that the elephant imported into this state has not been exposed to mycobacterium tuberculosis within 5 years prior to the date of import. If the elephant has been exposed to this disease within 5 years, the person may not import the elephant unless the elephant has met additional tuberculosis testing requirements specified by the state veterinarian.

15. Appendix B.

Appendix B to ch. ATCP 10 specifies diseases that must be reported within 10 days. The proposed rule amends the Appendix to match federal requirements.

16. Animal markets, dealers and truckers

Current rule establishes licensing requirements and responsibilities of animal markets, animal dealers and animal truckers.

The proposed rule clarifies when a license is not required, such as the following:

- A farm operator does not need an animal market license to have an occasional sale buying or exchanging livestock solely for dairy, breeding, or feeding operations on that farm or who sells only livestock produced or raised on that farm.
- A person does not need an animal trucker license to transport livestock or wild animals solely as an employee of a person who owns those animals.

The proposed rule eliminates the requirement that a Class B animal market, when applying for an animal market license, identify the dates during the previous license year, if any, on which the person conducted livestock sales at the animal market.

The proposed rule provides cross-references to additional fees that may apply to a person applying for an animal market and dealer trucker license.

The proposed rule clarifies that DATCP may deny, suspend, or revoke an animal market or animal dealer license if the applicant is in violation of 9 CFR Part 201, relating to registration or bonding requirements of the Federal Packers and Stockyards Act.

The proposed rule clarifies that an animal dealer or animal market operator must immediately apply and record an animal's official individual identification, if the animal does not already have it, if that animal was backtagged to go to slaughter but did not go to slaughter.

The proposed rule repeals the requirement that an animal market operator, animal dealer and animal trucker record the livestock premises code of the premises from which an animal was received and the livestock premises code of the premises to which the animal is shipped or delivered.

The proposed rule prohibits the use of electric prods on neonatal or other baby animals. The proposed rule also prohibits hitting these animals with any type of solid object that may cause injury, pain or stress to the animal.

17. Waiver.

The proposed rule allows DATCP to grant a waiver from the requirements under ch. ATCP 12, if it receives a written request for the waiver and DATCP finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 12, and will not conflict with state law.

Summary of, and comparison with, existing or proposed federal statutes and regulations

The USDA administers federal regulations related to the interstate movement of animals, particularly with respect to certain major diseases. States regulate intrastate movement and imports into the state.

Federal CWD Herd Certification Program (HCP) requirements include official individual identification of animals, regular inventories, and CWD testing of cervids over 12 months of age that die. Interstate movement of cervids will be dependent on a state's participation in the program, maintaining compliance with program requirements, and having achieved herd certification status.

Federal traceability requirements establish minimum national official identification and documentation for the traceability of livestock moving interstate. These regulations specify approved forms of official identification and documentation for each species.

The proposed rule eases some requirements for those farm-raised deer keepers that have herds enrolled in the CWD HCP while still meeting federal requirements.

Comparison with Rules in Adjacent states

Surrounding state animal health programs are comparable to those in Wisconsin. Programs for historically important diseases, such as tuberculosis, brucellosis and CWD, in other Midwest states are similar to Wisconsin, as all are based on well-established federal standards.

States may apply to become an Approved State HCP if they meet (or exceed) national program requirements. Cervid owners can enroll and participate in their Approved State CWD HCP. Interstate movement of animals is dependent on a state's participation in the program, maintaining compliance with program requirements, and having achieved herd certification status. Wisconsin, Illinois, Iowa, Michigan and Minnesota have approved CWD HCPs by the USDA Animal and Plant Health Inspection Service (APHIS). Therefore, all are implementing the federal requirements and thus are similar to Wisconsin rules.

To meet federal CWD HCP requirements for farm-raised deer to move interstate, a state program must meet approved forms of official identification. Wisconsin, Illinois, Iowa, Michigan and Minnesota programs are approved as meeting the federal traceability identification requirements in order to move livestock interstate. Therefore, all are implementing the federal requirements and all should have similar state rules.

Summary of Factual Data and Analytical Methodologies

This proposed rule does not depend on any complex analysis of data. This proposed rule makes minor, technical changes based on the Division's review and use of the rule, as well as changes made based on discussions with the farm-raised deer industry and other interested parties.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

The majority of these proposed rule changes are to make the requirements throughout the rule consistent.

The most significant rule changes (and fiscal impact) relate to FRDKs enrolled in the Wisconsin CWD HCP. Division staff met with representatives of the FRDKs industry in March 2015 to discuss suggested changes to the rules relating to FRD and how to ease some of those requirements while still meeting federal regulations. Many of the small business fiscal effects were developed from that meeting, as well as from discussions with individual FRDKs.

Effect on Small Business

The majority of these rule modifications are technical and have no or minimal fiscal effect. Many of the rule modifications will ease program requirements and may reduce costs to small business.

The entities that may be affected by this rule modification include the following:

1. Veterinarians.

Upon the effective date of the rule, veterinarians and authorized employees or agents of DATCP or the federal bureau will be required to take DATCP-approved training on tuberculosis testing and sample collection within 5 years prior to testing an animal for tuberculosis. Such training is already required of veterinarians testing FRD for tuberculosis. This will be a new requirement for veterinarians who choose to test animals for this disease. Because this training is provided free of charge, there will be no cost to these veterinarians.

2. Farm-raised deer keepers (FRDKs).

CWD testing. FRDKs who have herds enrolled in the CWD herd status program with at least 5 years of status may realize a significant cost savings, as only 25% of their FRD aged 12 months or older shipped directly to slaughter must be tested for CWD. This change is significant as current rule requires 100% of these FRD to be tested for CWD when sent to slaughter.

FRDKs whose herds are not enrolled in the CWD herd status program may realize a significant cost savings as only 50% of their FRD aged 16 months or older that are killed intentionally, except after escape, must be tested for CWD. This change is significant as current rule requires 100% of these FRD to be tested for CWD.

It is estimated that hiring a veterinarian to collect CWD test samples costs approximately \$75 per deer. Depending on the number of deer tested at one time, this cost may be lower. This cost will also be lower if the FRDK has a qualified employee or immediate family member that can collect the CWD test samples. Because the actual cost to test a deer for CWD is unknown, total cost savings are indeterminate.

Hunting preserves. Changing the term hunting “preserves” to hunting “ranches” was requested by the farm-raised deer industry. The fiscal effect of this terminology change is unknown but is presumably low, as it is sought by the FRD industry.

Commingling FRD with bovine animals. Current rule allows FRD and bovine animals to be commingled only if those animals move to slaughter.

The proposed rule clarifies that FRDKs who wish to keep deer and bovine animals at the same location without having to move them to slaughter must have fencing and facilities adequate to maintain medical separation at all times. Medical separation includes double fencing and bio-security procedures, including procedures to prevent the commingling of farm-raised deer with bovine animals.

A FRDK who chooses to keep FRD and bovine animals at the same location will incur costs to purchase additional fencing and separate equipment for the FRD and bovine animals. There is also a one-time cost of \$200 for each day needed for department staff to complete the medical separation inspection of the location.

It is unknown how many FRDKs wish to keep FRD and bovine animals at the same location. Therefore, these costs are indeterminate.

3. Wisconsin importers of elephants.

Current rule specifies requirements for any person that imports certain animals or imports animals for certain activities. The proposed rule specifies requirements for the import of elephants. The current import requirements for elephants are listed under wild animal and circus, rodeo, and menagerie animal imports. The proposed elephant import requirements incorporate several of those provisions into the rule. The new requirement that the owner of an elephant provide a statement that the elephant has not been exposed to mycobacterium tuberculosis within 5 years prior to the date of import should not result in a significant cost to the importer.

Environmental Impact

This rule does not have an environmental impact.

Standards Incorporated by Reference

None.

DATCP Contact

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Place where Comments are to be Submitted and Deadline for Submission

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SECTION 1. ATCP 10.01 (5), (8), (17) (a), (42), (45), and (59) are amended to read:

ATCP 10.01 (5) "Animal market" means any premises that are open to the public for the purpose of ~~buying or selling~~ trading in livestock or wild animals, and that have facilities to keep, feed, and water livestock or wild animals prior to sale.

(8) "Approved import ~~feedlot~~ feed lot" means a ~~feedlot~~ feed lot for which the department has issued a permit under s. ATCP 10.22 (9).

(17) (a) Except as provided in par. (b) or (c), the uniform methods and rules for the national brucellosis eradication program, as published in federal bureau publication 91-45-013 (October 1, 2003). Notwithstanding this paragraph and pars. (b) and (c), all official individual identification for all species must conform to this chapter.

(42) "Farm-raised deer" ~~means a captive cervid, but includes a non-captive cervid that has an ear tag or other mark identifying it as being raised on a farm.~~ "Farm-raised deer" has the

meaning given in s. 95.001 (1) (ag), Stats., but does not include a cervid kept by an institution accredited by the association of zoos and aquariums.

(45) “Federally approved livestock ~~import market~~ marketing facility” means an animal market that complies with s. ATP 10.07 (4).

(59) “John’s disease national program standards” means the program standards for the national voluntary John’s disease control program, as published in federal bureau publication 91-45-016 (September 2010). For all species, official individual identification must conform to this chapter.

SECTION 2. ATP 10.01 (71) (b) is renumbered 10.01 (71) (b) (intro.) and amended to read:

ATP 10.01 (71) (b) (intro.) For farm-raised deer, ~~an~~ any of the following:

1. An official eartag ear tag attached to the animal.

SECTION 3. ATP 10.01 (71) (b) 2. is created to read:

ATP 10.01 (71) (b) 2. A federal bureau and department approved microchip implanted in the animal.

SECTION 4. ATP 10.01 (71) (c) is amended to read:

ATP 10.01 (71) (c) For equine, a any of the following:

1. A written or graphic description by a licensed and accredited veterinarian sufficient to identify the individual equine including all of the following:

SECTION 5. ATP 10.01 (71) (c) 1. to 7. are renumbered 10.01 (71) (c) 1. a. to g.

SECTION 6. ATP 10.01 (71) (c) 2. and 3. are created to read:

ATCP 10.01 (71) (c) 2. A federal bureau and department approved microchip implanted in the animal.

3. Digital photographs sufficient to identify the individual equine.

SECTION 7. ATCP 10.01 (71) (f) and (g) 3. are amended to read:

ATCP 10.01 (71) (f) For swine weighing 80 pounds or less, a tattoo or ~~eartag~~ ear tag applied to the animal including a premises identification code, or a state registered feeder pig premises tattoo number issued by the department, or the authorized animal health agency in the state of origin, or an official eartag attached to the animal.

(g) 3. A unique tattoo or ~~eartag~~ ear tag applied to the animal including a unique premises identification code or state registered feeder pig premises tattoo number issued by the department or the authorized animal health agency in the state of origin provided that the animal also bears an individual identification number unique to that premises, ~~or an official eartag attached to the animal.~~

SECTION 8. ATCP 10.01 (71) (g) 4. is created to read:

ATCP 10.01 (71) (g) 4. A tattoo on the ear or inner flank of any swine, if the tattoo has been recorded in the book of record of a swine registry association.

SECTION 9. ATCP 10.01 (71) (h) 2., (90), (101), and (106) (a) are amended to read:

ATCP 10.01 (71) (h) 2. A federal bureau and department approved microchip if implanted in the animal and the animal is registered with a breed registry, or if the animal is in a scrapie free flock certification program flock or herd. The animal must be accompanied by the animal's registration documents in the animal owner's name or by a certificate of veterinary inspection with the implant number.

(90) "Slaughtering establishment" means a ~~slaughtering establishment~~ facility to slaughter animals that is licensed by the department, or that is subject to inspection by USDA.

"Slaughtering establishment" includes all premises used in connection with the slaughter operation including an approved intermediate livestock handling facility.

(101) "Tuberculosis modified accredited state" means a state that USDA has classified as a tuberculosis modified accredited state, or a state with a tuberculosis prevalence in bovine herds greater of at least 0.01% but not more than 0.1%.

(106) (a) Except as provided in par. (b), the uniform methods and rules for the national bovine tuberculosis eradication program, federal bureau publication 91-45-011 (January 1, 2005). Notwithstanding this paragraph and par. (b), all official individual identification for all species must conform to this chapter.

SECTION 10. ATPC 10.01 (99m) is created to read:

ATPC 10.01 (99m) "Trading in livestock or wild animals" means the trading, buying, selling, or swapping of livestock or wild animals.

SECTION 11. ATPC 10.01 (103) is repealed.

SECTION 12. ATPC 10.03 (3) is amended to read:

ATPC 10.03 (3) A person may make a report under sub. (1) or (2) by telephone, by email, by fax, or by any other effective means of communication that ensures the report will reach the department within the applicable time limit set forth in this section. The reported information shall include the species, age, sex, and breed of the animal inflicted with the disease, the address of the farm, and the premises code, if any. If the report is not initially in writing, the person shall confirm the report in writing by mail, e-mail, or fax within 10 days.

SECTION 13. ATCP 10.045 is created to read:

ATCP 10.045 Official individual identification application and record keeping requirements. (1) Whenever a person distributes official individual identification or applies official individual identification to any animal, that person shall keep a record of the date of distribution or application, the official identification number that was distributed or applied to the animal, and the name and address of the owner of the animal.

(2) A person who is required to keep records, under sub. (1), shall do all of the following:

(a) Retain each record for at least 5 years.

(b) Make the records available to the department, upon request, for inspection and copying.

SECTION 14. ATCP 10.055 is created to read:

ATCP 10.055 Tuberculosis testing and control. (1) WHO MAY TEST OR COLLECT SAMPLES. (a) A person who performs a caudal fold tuberculin test or who collects a sample for any other tuberculosis test on an animal for purposes of this chapter or ch. ATCP 12, shall have completed department-approved training on tuberculosis testing or tuberculosis sample collection training within 5 years prior to the test date and shall be one of the following:

1. An accredited veterinarian. If the veterinarian performs the test on an animal in this state, the veterinarian shall also be a Wisconsin certified veterinarian.

2. An authorized employee or agent of the department or the federal bureau that is directly supervised by a veterinarian employed by the state of Wisconsin, as authorized by the state veterinarian, or employed by the federal bureau.

(b) Only a veterinarian approved by the department or an employee of the department or federal bureau may conduct confirmatory tuberculosis testing on any animal under this chapter or ch. ATCP 12.

(2) TESTING APPROVAL. A person under sub. (1) may not perform a tuberculosis test on or collect a test sample from any animal from a quarantined or known infected herd, except with the department's approval.

(3) TEST REPORTING. A person under sub. (1) who performs a tuberculosis test on an animal in this state, or collects a tuberculosis test sample from an animal in this state, shall report the test result to the department according to s. ATCP 10.04 (1).

Note: A test report must include the animal's official individual identification. If the animal has no official individual identification, the person collecting the test sample must identify the animal with an official individual identification. See s. ATCP 10.04 (1) (e).

(4) TEST POSITIVE ANIMAL; MOVEMENT RESTRICTED. No person may sell or move an animal that tests positive on any tuberculosis test until one of the following occurs:

(a) The department determines that the animal is not a tuberculosis suspect or reactor.

(b) The animal is classified as a tuberculosis reactor and treated as determined by the department.

SECTION 15. ATCP 10.06 (3) (a), (4) (intro) and (j), and (5) are amended to read:

ATCP 10.06 (3) (a) A certificate of veterinary inspection shall be issued on a form provided by, or approved by, the department, ~~the federal bureau, or the state in which the certificate is issued.~~ Except as required under this chapter, or ch. ATCP 12 or 16, a certificate issued in this state shall be issued on a form provided by, or approved by, the department.

(4) CONTENTS. (intro) Except as required by other applicable provisions of law, a certificate of veterinary inspection related to a shipment of animals shall include all of the following information, which shall be verified by the issuing veterinarian:

(j) The veterinarian's signature ~~and~~, date of signature, inspection date, and issue date.

(5) CERTIFICATE VALID FOR 30 DAYS. A certificate of veterinary inspection is valid for 30 days from the date of inspection unless the department specifies additional import requirements or a different expiration date under s. ATCP 10.07 (1) (b) or (2), or if the state veterinarian determines based on an epidemiological evaluation of current disease risks in a herd, or place of origin, in Wisconsin that a different expiration date is necessary.

SECTION 16. ATCP 10.07 (4) (title), (a) (intro.) and 3., (b), (c) (intro.), and (d) are amended to read:

ATCP 10.07 (4) (title) FEDERALLY APPROVED LIVESTOCK ~~IMPORT MARKETS~~ MARKETING FACILITIES. (a) (intro.) An animal market qualifies as a federally approved livestock ~~import market~~ marketing facility, for purposes of this chapter, if all the following apply:

3. The department has authorized the animal market to receive animal import shipments as a federally approved livestock ~~import market~~ marketing facility under this chapter.

(b) Animals of a type identified in the agreement under par. (a) 2. may be imported to the federally approved livestock ~~import market~~ marketing facility without meeting import requirements under this chapter, provided that the animals are imported in compliance with 9 CFR 71, 78, 79, and 85, and the agreement under par. (a) 2.

(c) (intro.) An operator of a federally approved livestock ~~import market~~ marketing facility may not do any of the following:

(d) The operator of a federally approved livestock ~~import-market~~ marketing facility shall keep all records required by this chapter, ch. ATPC 12, and 9 CFR 71.20. The operator shall retain the records for at least 5 years, and shall make them available to the department for inspection and copying upon request.

SECTION 17. ATPC 10.07 (4) (am) is created to read:

ATPC 10.07 (4) (am) A federally approved livestock marketing facility, under par. (a), may be a federally approved tagging site if that facility has an agreement with the federal bureau under 9 CFR 86.1.

SECTION 18. ATPC 10.13 (1) (a) (intro.) and 2. are amended to read:

ATPC 10.13 Tuberculosis testing and control. (1) WHO MAY TEST OR COLLECT SAMPLES. (a) (intro.) A person who performs a caudal fold tuberculin test on a bovine animal or who collects a sample for any other tuberculosis test on a bovine animal, for purposes of this chapter or ch. ATPC 12, shall have completed department-approved training on tuberculosis testing or tuberculosis sample collection within 5 years prior to the test date and shall be one of the following:

2. An authorized employee or agent of the department or the federal bureau that is directly supervised by a veterinarian employed by the state of Wisconsin, as authorized by the state veterinarian, or employed by the federal bureau. ~~The employee or agent shall be a veterinarian, except that a non-veterinarian may perform routine screening tests under the direct supervision of a veterinarian.~~

SECTION 19. ATPC 10.13 (1) (b) is repealed and recreated to read:

ATCP 10.13 (1) (b) Only a veterinarian approved by the department, or an employee of the department or federal bureau, may conduct confirmatory tuberculosis testing on a bovine animal under this chapter or ch. ATCP 12.

SECTION 20. ATCP 10.13 (1m) is created to read:

ATCP 10.13 (1m) TESTING APPROVAL. A person under sub. (1) may not perform a tuberculosis test on or collect a test sample from a bovine animal from a quarantined or known infected herd, except with the department's approval.

SECTION 21. ATCP 10.13 (3) and Note, (5), (6) (a) are amended to read:

ATCP 10.13 (3) (title) ~~VETERINARIAN TO REPORT~~ TEST REPORTING. A ~~veterinarian person~~, under sub. (1), who performs a tuberculosis test on a bovine animal in this state, or collects a tuberculosis test sample from a bovine animal in this state, shall report the test result to the department ~~and the animal owner~~ according to s. ATCP 10.04 (1).

Note: A test report must include the animal's official individual identification. If the animal has no official individual identification, the ~~veterinarian person~~ collecting the test sample must identify the animal with an official individual identification. See s. ATCP 10.04 (1) (e).

(5) TEST POSITIVE ANIMAL; FURTHER TESTING AND CLASSIFICATION. Whenever the department ~~or the federal bureau~~ receives a positive tuberculosis test report under sub. (3), the department or the federal bureau shall conduct ~~follow-up~~ confirmatory testing to determine whether the animal is a tuberculosis suspect or reactor. The department or the federal bureau shall test and classify animals according to the tuberculosis uniform methods and rules.

SECTION 22. ATCP 10.13 (6) (a) (intro.) and 1. are consolidated, renumbered ATCP 10.13 (6) (a), and amended to read:

ATCP 10.13 (6) (a) Within 15 days after the department or the federal bureau classifies a bovine animal as a tuberculosis reactor, the animal owner shall ~~do all the following:~~^{1.} Have have the animal identified as a tuberculosis reactor and shipped to a slaughtering establishment for slaughter, according to the tuberculosis uniform methods and rules. The owner or authorized agent shall obtain a department permit under s. ATCP 10.08 (3) for the slaughter shipment.

SECTION 23. ATCP 10.13 (6) (a) 2. is repealed.

SECTION 24: ATCP 10.13 (6) (c) is amended to read:

ATCP 10.13 (6) (c) An animal owner may request an indemnity under s. 95.25 (5), Stats., for a tuberculosis reactor slaughtered according to ~~par. pars. (a) 1 and (b).~~ The animal owner shall file the request with the department, on a form provided by the department. The owner shall include, with the request, a slaughter confirmation signed by an authorized employee of the department or the federal bureau. An animal owner does not qualify for an indemnity if the owner fails to comply with ~~par. pars. (a) and (b).~~

SECTION 25. ATCP 10.21 (1) (a) (intro.), (2) (a) (intro.) and 1., and (b) 1., are amended to read:

ATCP 10.21 (1) OFFICIAL INDIVIDUAL IDENTIFICATION. (a) (intro.) A veterinarian who does any of the following to any bovine animal shall insert, in the ear of the animal, an official eartag unless the animal is already identified with an official eartag and shall record, on the applicable document under subd. 1. or 2., the number of the official individual identification:

(2) (a) (intro.) If an animal trucker, animal dealer, animal market operator, federally approved livestock ~~import-market~~ marketing facility operator, or slaughtering establishment operator receives any bovine animal over 2 years old for slaughter, or for sale or shipment to